

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN DOES 1 THROUGH 7,

Judgment Creditors,

v.

THE TALIBAN, AL-QAEDA,
and THE HAQQANI NETWORK,

Judgment Debtors.

Misc Action No. 1:20-mc-00740-GBD

CREDITORS' MOTION TO EXTEND WRIT OF EXECUTION

Creditors, John Does 1 through 7, through undersigned counsel, hereby request an extension of a Writ of Execution served by Creditors, and in support thereof state:

1. Doe Creditors hold a judgment for an act of terrorism against the Taliban, al Qaeda, and the Haqqani Network. They registered the judgment in this district for the primary purpose of satisfying it from blocked assets of agencies or instrumentalities of their terrorist judgment debtors pursuant to the Terrorism Risk Insurance Act of 2002 ("TRIA"), Pub. L. No. 107-297, 116 Stat. 2322. DE 5.

2. To that end, on August 26, 2021, Doe Creditors filed an Emergency Motion for Writ of Execution concerning assets held by the Federal Reserve Bank of New York ("FRBNY"). The requested Writ of Execution concerning assets held at FRBNY was issued on September 27, 2021.

3. Subsequently, on December 13, 2021, the Clerk of this Court issued the subject Writ of Execution concerning assets held at another bank, which writ was served by the U.S.

Marshal on January 3, 2022. DE 66. On information and belief, no funds have been transferred to the Marshal pursuant to this writ.

4. According to New York law:

At the expiration of ninety days after a levy is made by service of the execution, or of such further time as the court, upon motion of the judgment creditor or support collection unit has provided, the levy shall be void except as to property or debts which have been transferred or paid to the sheriff or to the support collection unit or as to which a proceeding under sections 5225 or 5227 has been brought.

N.Y. C.P.L.R. § 5232.

5. Counting from the service date of January 3, 2022, the 90-day expiration provided for in C.P.L.R. 5232 would occur on April 3, 2022.

6. Meanwhile, Doe Creditors have diligently sought turnover of the assets held at FRBNY pursuant to their earlier writ. On March 20, 2022, Doe Creditors filed their Motion for Turnover of Assets From Garnishee Federal Reserve Bank of New York. DE 79. Significantly, the assets held at FRBNY, if recovered, would fully satisfy Doe Creditors' judgment.

7. The filing of a turnover motion pursuant to TRIA is an extensive endeavor supported by extensive evidence. *See e.g.* DE 79, 80, 81, and 82. Naturally, adjudicating the many issues surrounding a TRIA writ requires significant judicial resources.

8. Because the process of adjudicating the FRBNY writ is further along, significant resources will be wastefully expended by both Doe Creditors and the Court, and potentially others, if the subject writ is not extended. By contrast, there is no harm to extending the subject writ, as the assets at issue are blocked regardless of the writ.

9. The right to extensions of writs of execution is well-recognized. *See Kennis v. Sherwood*, 82 A.D.2d 847, 848, 439 N.Y.S.2d 962, 965 (App. Div. 2nd Dept. 1981) ("The levy is effective only for 90 days from the date of service (extensions are available)."); *Clarkson Co. v. Shaheen*, 540 F. Supp. 636, 639 (S.D.N.Y. 1982) ("creditor either can seek an extension of the 90

day period or can commence a supplementary proceeding ...”); *United States ex rel. Solera Constr. v. J.A. Jones Constr. Grp.*, No. CV 2003-1383 (SJF) (MDG), 2010 U.S. Dist. LEXIS 34065, at *18-19 (E.D.N.Y. Apr. 2, 2010) (“[b]efore expiration of the 90 day period of the levy, Solera/DCM could then have moved for an extension of the period or commenced a special proceeding ...”). The circumstances here call for extension of the subject writ.

WHEREFORE, Creditors respectfully request an Order granting an extension of the Writ of Execution served on January 3, 2022.

Respectfully submitted,

do Campo & Thornton, P.A.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 1, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/ Orlando do Campo
Orlando do Campo